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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,195	06/27/2002	Henri Samain	13833.0013	5156
7590 08/22/2006				
D Douglas Price Steptoe & Johnson 1330 Connecticut Avenue N W Washington, DC 20036			EXAMINER MOORE, MARGARET G	
			ART UNIT 1712	PAPER NUMBER

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/089,195	Applicant(s) SAMAIN ET AL.	
	Examiner Margaret G. Moore	Art Unit 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/30/-6.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12, 13, 15, 16, 18 to 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 13, 15, 16, 18 to 23 is/are allowed.
- 6) ☒ Claim(s) 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 12, 13, 15, 16 and 18 to 23 are allowed. The prior art fails to teach or suggest the silane compound (I) as now found in claim 12, or the siloxane having two or three silicon atoms as defined in claim 12. In addition the prior art fails to teach or suggest the disiloxane required by claim 18.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elfersy et al.

Initially the Examiner notes that the phrase "effective amount" as found in this claim reflects the amount necessary to arrive at the "cosmetic effect" cited further in the claim. That is, while "effective amount" on its own can, in some instances, be considered indefinite, in the context of this claim is it clear what the desired effect is.

As to the prior art rejection, the Examiner relies on the rationale noted in the previous office action. That is, patentees teach using the stabilized silane compound therein as a UV protectant. While the one excerpt specifically states sun-tan lotion, note col. 19, line 8, which teaches "cosmetics, lotions, creams, ointments". Again, with the knowledge that these silanes can be used to deliver improved UV protection, coupled with the fact that the silanes can be used in cosmetics and the known desirability of protecting one's hair from UV exposure, the skilled artisan would have found the use of such silanes in a hair treating cosmetic composition to have been obvious.

On the other hand, though not noted in the previous office action, one can take the position that sun-tan lotion inherently treats hair since applying sun-tan lotion to the body will necessarily involve applying lotion to the hair on the body.

As such this rejection is not believed to be based on impermissible hindsight but rather on the knowledge of one having ordinary skill in the art or on the basis of what will occur inherently. The Examiner maintains this rejection.

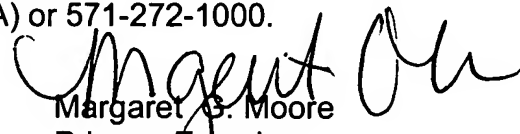
Art Unit: 1712

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
8/19/06